

March 9, 2022

RE: Support: HB 5366 – Automotive Repair – Sections 12, 13, 14

Dear Chairmen Lemar and Haskell, Ranking Members Carney and Somers, and Distinguished Members of the Transportation Committee:

On behalf of the Alliance for Automotive Innovation (Auto Innovators), I am writing in strong support of Sections 12, 13, and 14 of House Bill 5366, legislation that would grant consumers additional controls and protections in post-collision vehicle repairs. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents automakers producing nearly 98 percent of cars and light trucks sold in the U.S., as well as major suppliers and other automotive technology companies.

SUMMARY COMMENTS

Sections 12, 13, and 14 of this legislation are simple. They are about consumer choice and They are about consumer protection. **First, House Bill 5336 would ensure consumer choice in which parts are used on their vehicles in a repair** (Section 14). A vehicle purchased today is often the largest consumer transactions most people will ever make, save for buying a new home. Given that investment, consumers should be the one to decide what parts are used in a repair. No one is saying a consumer has to choose an OEM part, but if a consumer does not want aftermarket or used parts to be used in a repair, they should have the right to say so. **Second, House Bill 5336 would ensure consumers get a safe repair** (Section 13). Vehicles today are complicated machines, with over 30,000 parts and an estimated 100 million lines of software code. To return any vehicle to pre-collision condition and ensure safety systems will perform correctly in the future, repairers need to follow automaker repair procedures, for there are no other repair procedures to follow. Either a shop is following the repair instructions set forth by an automaker or they are making it up as they go along. This bill will give Connecticut consumers added say in the repair of their vehicle and requires shops to make the necessary repairs to return cars to pre-loss condition.

DETAILED COMMENTS

It is an inescapable reality that today's vehicles are dramatically more advanced than vehicles of only a few years ago. Aluminum, magnesium, and high-strength steel have replaced traditional mild steel to reduce vehicle weight while strengthening vehicle structures. To increase occupant safety, vehicle sensors like LIDAR, radar, and high speed cameras are used in many new advanced driver safety systems, as the industry continues its march toward the development of fully autonomous vehicle systems. These examples, combined with other advancements in vehicle technologies, result in an increasingly complex automobile.

It only goes to reason that to fix the cars of today (and tomorrow) one needs to utilize repair procedures of today. Accordingly, automakers develop and publish specific repair procedures to guide the post-collision repair of every new car they sell each year, detailing the proper way to return a vehicle to a safe, roadworthy condition. No other group or company provides anything comparable to the vehicle-specific guidelines to show how to conduct post-collision repairs. Most consumers would expect original equipment manufacturer (OEM) repair practices to be followed even in the absence of any law mandating such behavior. Unfortunately, we have come to understand that deviation from OEM repair procedures is common and widespread.

A new focus has been placed on this issue as a result of a \$42 million verdict in a recent case, *Seebachan v. State Farm Mutual Automobile Insurance Company*, which was handed down in the Texas Eastern District Court in 2017. In this case, it was found that, before the plaintiffs owned their vehicle, it was in a collision and then repaired in a manner not in keeping with the original manufacturer's repair procedures. This improper repair led the vehicle to be structurally unsound when the plaintiffs' vehicle was in a subsequent accident. At question during the case was the autobody shop's decision to deviate from the approved repair procedures to replace the roof panel. While OEM repair procedures called for over 100 separate welds to be used to reattach the roof, the offending collision shop used an automotive adhesive – essentially glue – to make the bond, something specifically discouraged by the adhesive manufacturer's warning label. When in a collision for a second time, the plaintiffs argued that the improper repair procedure compromised the structural integrity of the vehicle, trapping the couple in the vehicle, where they both received 4th degree burns over large portions of their bodies.

What was most alarming, however, was that in depositions provided by autobody shop personnel, when asked as to why they did not follow OE repair procedures, they stated that they were substituting insurance company practices for the recommendations of the vehicle's original manufacturer. They further indicated that they felt insurers had the ability to dictate the repair process used, as insurers were the ones who decided how much the shop would get paid to repair the vehicle. In the time since this verdict was released, we have learned this is far from an isolated experience – much more the norm than the outlier. In effect, collision shops are forced to decide between making a proper repair and receiving proper payment for their work.

This is not right. Insurance companies have actuaries to price insurance policies; they do not have engineers who know how to repair today's complex vehicles. Substituting – whether through formal or implied financial pressure – untested repair procedures for OEM repair procedures will only lead to unsafe vehicles on the roadways across the country. Consumers buy insurance to be made whole after an accident; shoddy repairs, designed to get a repair done faster and cheaper, but not done correctly, are not part of the policy.

There is no credible argument to suggest why any repair procedure, other than the one produced by the vehicle's manufacturer, should be followed. In fact, there actually are not any "other" procedures to follow. A shop either follows the technically sound practices established by the OEM or they are not following any approved repair plan. What may have worked for decades, when vehicles were a lot less complicated, simply does not cut it anymore. For a time, "industry" practices may have been sufficient; that time has passed.

Based on our advocacy for this issue in other states, I am aware that those in the business of selling aftermarket and used parts will accuse automakers of supporting such legislation as a means to block out the sale of their products. They reason that if a law is passed to say OEM repair procedures had to be followed, and if OEM repair procedures included language that recommended the use of OEM parts, then by default it would prohibited the use an aftermarket part or used parts. This is a red herring. In previous years, we have offered language to exempt any statements about the use of parts in OEM repair procedures from pending bills, but such offers were not accepted, for that is not their real concern. For all their attestations about the need for consumer choice, the one thing they fear is giving consumers the option to choose between genuine OEM parts, imitation aftermarket parts, and used parts of unknown provenance, for they know which part most consumers will choose for use on their own vehicle.

While Alliance members absolutely believe all consumers would be best served by using genuine OEM parts on their vehicle – parts which have been designed and tested in the same manner as the original parts on the vehicle – that is not our fight on this bill. To prove this point, if the Committee wanted to add an amendment to make it clear that – regardless of any language contained in an OEM repair procedure to the contrary – the use of replacement parts in an insurance-funded repair shall be governed by Connecticut's existing law on the subject (Chapter 700, Section 38a – 355), we would have no objection, provided the consumer choice in Section 14 of this bill is passed into law.

Thank you for your consideration of the Auto Innovators' position. Please do not hesitate to contact me, should I be able to provide any additional information.

Sincerely,



Wayne Weikel
Senior Director, State Affairs

cc: Members, Joint Committee on Transportation